IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 626 OF 2006

Ms. Farida Hoosenally ..Petitioner

versus

State of Maharashtra & Ors. ..Respondents

Mr. Y. P. Singh i/b. K. Bhalerao for the Petitioner.

Mrs. A. S. Pai, APP for the Respondents - State.

CORAM : D. G. DESHPANDE, &
V. K. TAHILRAMANI,JJ.

DATE : 18TH APRIL, 2006

P.C. :

1. Heard. Rule. Returnable forthwith by consent.

2. The Metropolitan Magistrate, 26th Court, Borivali, Mumbai, passed an order on 9.3.2006 in complaint filed by the complainant. In that order he has observed :

> "...Therefore, without interfering with the inquiry of the police which they are already doing the complaint be verified on oath again and thereafter upon considering the facts in the light of observation made by me

> above, the matter will be sent for inquiry u/sec. 202 of Cr.P.C. with specific direction to the police officer to inquire into the matter in the light of points mentioned by the complainant in paragraph (5) (c) on page No. 7 of the additional submissions dated 9th March 2006. Therefore, I direct that complaint be verified on oath by the complainant."

It is clear from this order that the Magistrate has not come to any conclusion either way. He has not rejected any of the contentions raised by the petitioner. The complaint is still pending. Even the basic statement, which is called the verification statement is not yet recorded. The petition is premature. Therefore Rule is discharged.

3. The Magistrate will proceed further in the matter after hearing the petitioner or his Advocate and after taking into account the police report, to pass appropriate orders, according to law. Magistrate will not consider whether any PIL is necessary. In such matters he will consider the matter on its own merits.

(D.G. DESHPANDE, J.)

(V.K. TAHILRAMANI, J.)